THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.28 of 2006

Dated 28-02-2006

Between:

K.V.M. Organic Products Private Limited,

Guntur, and another.

..... PETITIONERS

AND

The State of Andhra Pradesh, rep. by its

Principal Secretary, Agriculture and Cooperation Department, Secretariat, Hyderabad and three others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.28 of 2006

O R D E R:

This writ petition is filed aggrieved by the order dated 19-12-2005 passed by the second respondent-Commissioner and Director of Agriculture, whereby the request of the petitioners for release of the stocks seized under the provisions of the Insecticides Act, 1968 (for short 'the Act') was rejected.

The first petitioner is a company manufacturing insecticides under the licence granted under the provisions of the Act. The factory of the first petitioner was inspected by the respondents 3 and 4 on 29-07-2004 and having found that three items available in the factory were not included in the manufacturing licence, seized the said items under Panchanama. On the basis of the said seizure report, a show-cause notice was issued to the first petitioner on 25-11-2004 calling upon to show-cause as to why the manufacturing licence should not be suspended for violation of Section 18 (1)(a) of the Act and Rule 9 (3) (iii) of the Insecticides Rules, 1971. The petitioner submitted explanation to the show-cause notice stating that they have already made applications for registration of the said three products and anticipating the approval of registration they placed indent with the principal suppliers, however the registration certificates were not received in time. Hence the petitioners returned

some of the stocks to other formulators and even the balance stocks which were seized were not displayed for sale. It was pleaded that since their applications were pending, it cannot be said that the petitioners have violated the provisions of the Act. However, the second respondent by order dated 30-12-2004 suspended the manufacturing licence of the first petitioner for a period of three years. Aggrieved by the same, the first petitioner preferred an appeal before the first respondent-Government which was disposed of by order dated 04-04-2005 revoking the suspension of the licence of the first petitioner subject to payment of penalty of Rs.1,00,000/-. It is not in dispute that in compliance with the said order dated 04-04-2005, the petitioners paid the penalty imposed by the first respondent. Thereafter, the first petitioner made a representation requesting for release of the seized stocks in view of the order dated 04-04-2005 passed by the first respondent. However, the second respondent under the impugned order dated 19-12-2005 rejected the request of the first petitioner, which runs as under:

> *"With reference to the letter cited, your request for release of seized stocks is not considered in view of violation of provisions of Insecticides Act, 1968."*

The said order dated 19-12-2005 is questioned in this writ petition contending *inter alia* that the order is not only cryptic and devoid of any reasons but it is also contrary to the provisions of Section 22 of the Act.

The learned counsel for the petitioners submits that since the alleged contravention of the provisions of the Act or the Rules has not been made out, the fourth respondent ought to have informed the Magistrate seeking orders for release of the seized stocks as contemplated under Section 22 of the Act. It is further contended that in view of the finding recoded by the Appellate Authority that the first petitioner had returned the products not covered by the licence to other formulators and did not sell to the farmers, there is absolutely no justifiable reason to reject the request of the petitioner to release the stocks seized.

It is true that under Section 22 of the Act, a detailed procedure has been prescribed which has to be followed after the stocks were seized under Section 21 of the Act. As per sub-Section (2) of Section 22 of the Act, in case it is found that the licencee was not guilty of contravention of any of the provisions of the Act, the stocks seized shall be returned forthwith. Similarly if the authority is satisfied that the defect has been remedied, the same shall be informed to the Magistrate and orders shall be obtained for release of the seized stocks. However if it is found that the licencee has contravened any of the provisions of the Act or where the licencee is convicted, the seized stocks are liable to be confiscated under Section 25 of the Act.

In the case on hand the proceedings under Section 22 are still pending and the fourth respondent, who is the competent authority to make an enquiry, has not yet passed any order either under Section 22 or under Section 25 of the Act.

Hence, without expressing any opinion on merits, the writ petition is disposed of with a direction to the fourth respondent to complete the proceedings pending under Section 22 of the Act and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of two weeks from the date of receipt of a copy of this order. No costs.

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(G. ROHINI, J)

Date:28-02-2006

Note: Issue CC in two days.

B/o

ghn